IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 7TH SEPTEMBER 2007 / 16TH BHADRA 1929

Bail Appl..No. 5340 of 2007()

CRMP.2973/2007 of DISTRICT COURT, PALAKKAD

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CRIME NO.206/2007 OF KOZHINJAMPARA POLICE STATION

PETITIONER/ACCUSED:

AYYASWAMY, S/O. GOPALASWAMY KOUNDER,
POTHEKAL, ERUTHIYAMPATHY, CHITTUR.

BY ADV. SRI.P.RAMAKRISHNAN

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA.

BY
PUBLIC PROSECUTOR SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 07/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.5340 of 2007

Dated this the 7th day of September 2007

O R D E R

Application for anticipatory bail. The petitioner along with three others faces allegations inter alia under Sections 326 and 452 I.P.C. The petitioner is the first accused. The crux of the allegations against the petitioner is that he, along with the co-accused, in furtherance of their common intention, trespassed into the toddy shop of the victim and attacked him with a dangerous weapon. Complaints were allegedly made about the illicit sale of toddy by the petitioner to the excise officials and under the impression that the victims in this crime were responsible for such action on the part of the excise officials, this attack was mounted on the victim. There are allegations that the petitioner personally wielded a dangerous weapon and caused injuries including fracture of tibia. Incident took place on 01/08/2007. Investigation is in progress. The petitioner apprehends imminent arrest. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The petitioner may, in these circumstances, be granted anticipatory bail, prays the learned counsel for the petitioner.

2. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that there are no circumstances justifying or warranting the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C.

3. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am unable to discern any features in this case which would justify the invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. This is a fit case where the petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

4. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr // True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007